

City Purchasing Solicitation Protests

Bidders have the right to protest certain decisions in the bid and award process that are made by the City. Whether concerns are about a Request for Proposal Process (RFP) or an Invitation to Bid (ITB), the following apply; the term “bids” shall apply to both.

Table of Contents:

- An Inquiry or a notice of intent to protest does not constitute a Protest
- Before the Bid Deadline
- After the Bid Deadline
- Form and Content for Protests
- Appeals

Inquiry or Intention does not constitute a Protest:

A notice to City Purchasing that a company intends to protest does not reserve the right to protest. You must actually file a protest within the required deadlines, and following the proper format. A casual inquiry, complaint, or a protest that does not provide the facts and issues, and/or does not comply with the form, content or deadlines herein, will not be considered or acted upon as a protest.

Protest on items known or that should have been known before the bid deadline:

- Certain concerns must be filed before bids are due. Any matter known – or that should have been known - before the bid deadline, must be submitted to the Buyer in writing as soon as practical and at least three business days before the bid deadline.
- Such matters include, but are not limited to:
 - Complaints about decisions or events that occurred before the bids were due,
 - Complaints about the bid specifications, minimum qualifications, or any aspect of the bid that is alleged to unduly constrain competition,
 - Complaints that the pre-bid conference was not fair or accessible,
 - Complaints that questions were not fully or properly addressed by the Buyer,
 - Complaints that the bid did not provide adequate information or contained improper criteria, or
 - Any other matter known or that should have been known, to interested bidders by reading the ITB or RFP.
- Protests over such matters will not be accepted after the bid deadline.

Protest on items known after bid deadline:

Bidders have the right to protest:

- Rejection of a bidder as Nonresponsive or Not Responsible;
- Rejection of a bidder into a “short list” for interviews if applicable;
- Notice of Intent to Award

After the bid deadline, only vendors that submitted a bid are eligible to protest.

Grounds for Protest: Only protests alleging an issue concerning the following subjects shall be considered:

1. A matter of bias, discrimination, or conflict of interest;
2. Errors in computing score; and/or
3. Non-compliance with procedures described in the solicitation or City policy.

Protest Deadlines: Protests must be filed within three business days after the announcement from the City Buyer in order to assure City consideration.

- The Buyer will announce rejection of a bid for responsiveness or responsibility. This announcement will go to the affected Bidder. Protests concerning rejection must be filed with the City Buyer within three business days after the Buyer announcement that the Bidder has been rejected to assure consideration.
- When solicitations intend to “short list” bidders for interviews and/or demonstrations, the Buyer will announce which Bidders have been selected to proceed. Protests concerning those decisions must be made within three business days after the Buyer announcement to assure consideration.
- The “Intent to Award” announcement shall be made by the City Buyer. Protests regarding award decisions must be made within three business days of the City announcement to assure consideration.

The Buyer shall make efforts to distribute the announcement to the affected bidder(s), such as posting on the City Web site or mailing the notice to the affected bidder(s). However, it is the Bidder’s responsibility to seek out and obtain the announcement from the City in a timely manner. The City is not responsible for assuring the Bidders have learned of the announcement in time to file a protest.

Protest Form and Content:

All protests shall be in writing and state that the bidder is submitting a formal protest. Protests must be filed with the City Buyer. Deliveries by hand, e-mail, mail or fax are acceptable. The City is not responsible to assure the protest is received by the Buyer within the protest deadlines. If the City Buyer does not receive the protest in a timely manner, the protest can be rejected.

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FAX: 206-233-5155

Include the following information in your protest letter. Include all information you want considered within the package you submit. Failure to provide the following information can

result in rejection of your protest if the materials are not sufficient for the City to adequately consider the nature of your protest:

- a. Company name, mailing address, phone number, and name of company individual responsible for submission of the protest;
- b. Specify the City Bid Number and title;
- c. State the specific action or decision protested;
- d. Indicate the basis for the protest including specific facts;
- e. Indicate what relief or corrective action you believe the City should make;
- f. Demonstrate that you made every reasonable effort within the bid schedule to resolve the issue, including asking questions, attending the pre-bid conference, seeking clarification, requesting addenda, and otherwise alerting the City to any perceived problems; and
- g. Signed by an authorized agent of the company.

Protest Process:

- a. The City Purchasing and Contracting Services Director will review the protest. All available facts will be considered and the City Purchasing and Contracting Services Director shall issue a final decision. This decision shall be delivered in writing by e-mail, fax or mailed notice to the protesting bidder.

Each written determination of the protest shall:

- a. Find the protest lacking in merit and uphold the City action; or
- b. Find only immaterial or harmless errors in the City's acquisition process and therefore reject the protest; or
- c. Find merit in the protest and proceed with appropriate action, which may include but is not limited to rejecting all bids or retabulating bids.

If City Purchasing finds the Protest without merit, City Purchasing may continue with the bid process or enter into a contract with the apparent successful contractor if the contract has not been previously signed. If the protest is determined to have merit, one of the alternatives noted in the proceeding paragraph will be taken.

Nothing herein shall diminish the authority of City Purchasing to enter into a contract, whether a protest action or intention to protest has been issued or otherwise.